



Committee report

Committee **CABINET**

Date **10 SEPTEMBER 2013**

Title **AMENDMENTS TO THE HOME TO EDUCATION TRANSPORT POLICY**

Report of **CABINET MEMBER FOR CHILDRENS SERVICES**

EXECUTIVE SUMMARY

1. The IOW Council's Home to Education Transport (HTET) 2012/13 Policy requires two amendments to ensure it complies with legislation and to ensure that the Council meets its statutory duties.
2. Cabinet is recommended to approve the changes to the policy (the updated version is attached in Appendix 1). The revised clauses apply on pages 6, 7 and 8 of the new policy. As the changes impact from the beginning of the new school term preparation for implementation of the updated policy is already underway to ensure it can be effected as soon as possible following the decision.
3. The changes amend the definition of 'safety of routes' and the basis for entitlement for secondary age pupils attending mainstream schools. The changes will mean that more pupils are potentially entitled to transport. No pupil will have their transport entitlement removed as a result of these changes.

BACKGROUND

4. The Education Act 1996 (as amended) imposes a duty on Local Authorities (LAs) to facilitate the attendance of children at schools. In particular the council has a duty under section 508B Education Act 1996 to provide home to school transport to eligible children. The Council's HTET Policy was updated for September 2012 but unfortunately the policy did not conform with the statutory requirements for unsafe routes and those pupils who live outside of statutory walking distance for secondary age pupils.
5. The recommended updated policy includes an additional clause that ensures that transport will be provided to a secondary age pupil to attend a school which is the nearest school outside the 3 mile limit even if that school is not the catchment school. The previous policy restricted the definition of an unsafe home to school route by requiring that it must be a distance of more than 1 mile. The relevant legislation does not provide a minimum distance for a route to be classified as unsafe.

STRATEGIC CONTEXT

6. These changes support the following priorities in the [Corporate Plan 2011-13](#).

- Keeping children safe

SERVICE/DECISION SPECIFIC PARAGRAPH

7. There are potential cost implications as more children may prove to be entitled to the home to school transport service. Over time there are further potential extra costs that are dependent on patterns of parental preference which may be influenced by changes to transport policy.
8. The changes in paragraph 6 may require routes to be assessed following The Local Authorities' Road Safety Officers' Association (now known as Road Safety GB) guidelines. In summary a route that is thought to be unsafe needs to be assessed to ensure it is reasonably practicable for a pupil/student to walk along and a pupil/student, accompanied as necessary, can walk along with reasonable safety. There are already some Island routes assessed as unsafe. Over time more routes are likely to be assessed as unsafe.
9. It is noted that school place planning decisions of the future, including the establishment of a Free School and Studio School on the island from September 2014, may impact on entitlement under policy. As a result of school organisation changes or financial challenges the HTET Policy may require a wider review and this will be considered once the impact of other factors can be fully assessed.

CONSULTATION

10. No consultation has been applied to these changes as they are of a minor nature and do not represent a significant change to the policy. They are introduced to ensure that the Council meets its statutory duties as prescribed in primary legislation. These changes will not disadvantage pupils and will not remove entitlement from any pupil who is currently entitled to transport.

FINANCIAL / BUDGET IMPLICATIONS

11. There are potential cost implications as more children will prove to be entitled to the home to school transport service. Initial analysis has been undertaken using school census data. Fewer than 100 secondary children attend their nearest school that is more than three miles away but do not receive transport assistance. They can be offered HTET as soon as the changes to policy are confirmed. The average cost for providing HTET on the IOW is approximately £1000 per pupil. However, it is possible that these children can be provided for on existing routes and transport so adding entitled pupils to those routes may not incur an extra cost. The estimated maximum possible extra cost to the Council is approximately £25k per annum although officers consider this to be a worst case estimate. An assessment of possible 'historical' entitlement errors arising from the operation of the existing policy throughout 2012, which may provide a further 'one-off' cost is also underway.

12. Over time there are further potential extra costs, compared to the current cost to the Council of HTET, that are dependent on patterns of parental preference which may be influenced by these changes to transport policy. There are over 1100 children whose nearest school is over 3 miles away but they attend a further away school. The current contract with the main bus service operator does allow for further entitled children to travel without additional cost but where there is no existing provision additional services will be necessary. Impacts are difficult to assess or to forecast but providing a service to these additional entitled pupils at no extra cost within the existing contract may be possible.
13. There are approximately 100 entitled children (with a destination of 10 different schools) receiving a transport service because their travel route is assessed as unsafe. Analysis of the data clearly shows that there are other entitled children whose families choose not to access that service. Over time it is possible that more pupils will use the provided service and, in response to parental requests, more routes are likely to be assessed (following the appropriate guidance) and some will be assessed as unsafe. The specific cost to transport more entitled pupils is more difficult to assess. Some existing contracts may just need extension, with little or no extra cost, to transport children living within one mile of their school.
14. The analysis so far has identified the numbers of newly entitled children (with an associated maximum budget pressure of approximately £25k). There are further possible newly entitled children based on analysis of existing home addresses compared to the location of schools but entitlement would only have arisen with a different preference for a school place, with that preference being met and presumes that parents would want their children to use the transport service. As well as all those factors some children can be provided for within existing contracts without additional cost. Therefore the real additional cost, which will only become apparent over time, is difficult to forecast.
15. The additional costs identified in this report can be met from savings already identified in the Education budget. However, any additional costs in excess of those already identified will be added to the overall budget pressures already identified in the Children's Services budget.

LEGAL IMPLICATIONS

16. The Education Act 1996 ("the Act") as amended, states that the council must provide free transport to and from school for "eligible" children (section 508B).
17. Paragraph 1 of Schedule 35B to the Act provides that an "eligible child" is a child who falls within paragraphs 2-7 or 9-13 of that Schedule. In particular a child is eligible for home to school transport if:
 - (a) Due to the nature of the route, a child cannot reasonably be expected to walk to school under the provisions of paragraphs 4 and 5 of Schedule 35 B; ie the route is assessed as being unsafe,
 - (b) The pupil meets the requirements for being outside of walking distance under paragraphs 6 and 7 of Schedule 35B. ie the pupil, in the case of a secondary

age pupil where the school is more than 3 miles from the pupils home address.

18. Where a duty exists, section 508B(1) of the Act provides that the LA must make *“such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitating the child’s attendance at the relevant educational establishment in relation to him, are made and provided free of charge in relation to the child”*.
19. The council is required, by virtue of the Schools Information (England) Regulations 2008, to publish information relating to the discharge of their functions under sections 508B for their general arrangements as regards to travel to and from school.
20. The council must have regard to the Secretary of State's guidance [2007] issued under the Act. That guidance has been applied in relation to the amendments to the policy.
21. The proposed amendments shown at Appendix 1 of this report meet the requirements of the Act in respect of unsafe routes and pupils beyond statutory walking distance.

EQUALITY AND DIVERSITY

22. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
23. The amended policy is necessary to ensure the Council's HTET policy is compliant with legislation. The revised policy will provide for more entitled children (in line with the legislative requirements) and so no adverse or discriminatory impact is anticipated.

OPTION

24. That Cabinet approves the amended IOW Council's Home to School Transport (HTET) Policy (Appendix 1) is approved to ensure that the Council meets its statutory duties.

RISK MANAGEMENT

25. This will change entitlement for some children. Risks fall into the following categories
 - The revised policy needs to be published and communicated to families and will be effective for the new academic year. The original omission from the previous policy could lead to criticism of the Council.

- Newly entitled pupils need to be identified as soon as possible and their transport service provided. This may impact on existing provision, for example requires extra contracts or for paying passengers to be served notice on their arrangement.
- The previous policy did not meet with the requirements of legislation. Families may seek to establish backdated entitlement to transport and seek reimbursement of costs incurred.

EVALUATION

26. The Council's HTET Policy needs to ensure that the Isle of Wight Council meets its statutory duties under the relevant legislation and is drafted in accordance with Statutory Guidance. The amendment of the policy as set out in Appendix 1 achieves this objective.

27. RECOMMENDATION:-

The amended IOW Council's Home to School Transport (HTET) 2013/14 Policy (Appendix 1) is approved to ensure that the Council meets its statutory duties.

APPENDICES ATTACHED

28. [APPENDIX 1](#) - HOME-TO-EDUCATION TRANSPORT POLICY For implementation from September 2013

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